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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/683,685	02/03/2002	Aleksandar Susnjar		3106

30379 7590 07/15/2004

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EXAMINER

VERBRUGGE, KEVIN

ART UNIT PAPER NUMBER

2188

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/683,685

Applicant(s)

SUSNJAR, ALEKSANDAR

Examiner

Kevin Verbrugge

Art Unit

2188

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attachment.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 16-18.Claim(s) withdrawn from consideration: 1-15 and 19.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

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Kevin Verbrugge
Primary Examiner
Art Unit: 2188

The response titled "Notice of Appeal and Response to Fourth Office Action" was received in the Office on 6/3/04 with a certificate of mailing dated 5/25/04, which is within two months of the date of mailing of the final Office action mailed 3/26/04. Therefore, the period for reply expires on the mailing date of this Advisory Action. So Applicant should use the mailing date of this Advisory Action to calculate any extension of time fees due when submitting an additional response. However, the statutory period for reply expires six months from the date of mailing of the final rejection (3/26/04), so the last day to file an additional response is 9/27/04 (the first business day on or after 9/26/04).

The Notice of Appeal and Response to Fourth Office Action is being considered as a Petition and Response to Fourth Action since the Applicant is "appealing" the restriction requirement and a restriction requirement is not appealable, rather it is petitionable. Therefore, the Notice of Appeal Regarding Election/Restriction is being considered as a Petition Regarding Election/Restriction. This matter will be decided by the Commissioner for Patents or one of his assigned representatives.

The remainder of the response includes three things:

1. claim amendments in response to claim objections
2. claim amendments in response to 35 USC 112 rejections and
3. arguments regarding the 35 USC 102 and 103 rejections

The claim amendments of 1 and 2 will be entered because they are directed to formal matters. The arguments of 3 are a request for reconsideration. The arguments are not persuasive and therefore do not put the application in condition for allowance.

The argument that the "hard disk drive system" of claim 16 can only be a single hard disk drive is not persuasive. The definition of "system" provided on page 6 from the Meriam-Webster dictionary includes multiple definitions that make the interpretation of "hard disk drive system" reasonably include multiple hard disk drives. In the first example in the definition, number system includes multiple numbers. In the sixth example, telephone system includes multiple telephones. And in the seventh example, a highway system includes multiple highways. From these examples it is clear that a hard disk drive system can include multiple hard disk drives. The Applicant is reminded that the Examiner is required to give the claims the broadest reasonable interpretation, and that requires that the term "hard disk drive system" include multiple hard disk drives in a system.

The arguments regarding claim 18 are also not persuasive. The fact that two-way communication is not common is not evidence that it is not obvious to implement two-way communication with disk drives. The extra expense of enabling two-way communication and the generally sufficient data rates achievable with one-way communication may be the reason why hard drives commonly use two-way communication. But to the skilled artisan who desired faster data rates than one-way communication provides, it would have been obvious to use two-way communication to speed up the access time.

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